BORA LASKIN LAW LIBRARY
3 1761 10631460 2

CASES AND MATERIALS ON ADMINISTRATIVE LAW

VOLUME 2

Professors Risk & Eberts

Faculty of Law
University of Toronto

Digitized by the Internet Archive
in 2018 with funding from
University of Toronto

https://archive.org/details/casesmaterialsin02eber_1

CASES AND MATERIALS ON ADMINISTRATIVE LAW

VOLUME 2

Professors Risk & Eberts

Faculty of Law
University of Toronto

TABLE OF CONTENTS

PAGE

CHAPTER FIVE SOME READINGS

Dicey The Law Of The Constitution 407
Cory The Prospects For The Rule Of Law 408
The McRuer Report 410
Nonet Administrative Justice 413
Stewart The Reformation Of American Administrative Law 416

CHAPTER SIX THE PROCEDURE OF PUBLIC AUTHORITIES

PART 1 INTRODUCTION

Willis Administrative Law In Canada 418

PART 2 THE REQUIREMENT WHAT KINDS OF DECISIONS HAVE PROCEDURAL REQUIREMENTS IMPOSED BY COMMON LAW

a) THE TRADITIONAL APPROACH

Cooper v. The Wandsworth Board Of Works 423
Re Brown v. Brock 425
Ridge v. Baldwin 431

b) PROBLEMS ABOUT LAND

Knapman v. Board Of Health For Saltfleet Township 440
Calgary Power Ltd. And Halmrast v. Copithorne 444
The McRuer Report 447
The Expropriations Act 450
Wiswell et al. v. Metropolitan Corporation Of Greater Winnipeg 451

c) RIGHT AND PRIVILEGE

Nakkuda Ali v. Jayaratne 458
Davis Administrative Law Text 460
Gellhorn And Byse Administrative Law 461
Re Watt And Registrar Of Motor Vehicles 462
The McRuer Report 465
The Civil Rights Amendment Act 465

PAGE

Howarth v. National Parole Board 467
Mitchell v. The Queen 476

d) SOCIAL WELFARE

Goldberg v. Kelly 485
The McRuer Report 495
The Family Benefits Act 497
The General Welfare Assistance Act 498
Reich The New Property 499
Handler Controlling Official Behavior in Welfare Administration 505

e) INVESTIGATING AND ADVISING

Guay v. Lafleur 509
The Income Tax Act 512
Re Training Schools Advisory Board 513
Saulnier v. Quebec Police Commission 517
Re B And Commission Of Inquiry Re Department Of Manpower And Immigration 520

f) RULE-MAKING

Re Bedesky And Farm Products Marketing Board 523
Report Of The Special Committee On Statutory Instruments 526
Gellhorn And Byse Administrative Law 530

PART 3 THE ELEMENTS OF THE PROCEDURAL REQUIREMENTS: THE TRADITIONAL HEARING

a) INTRODUCTION

Board Of Education v. Rice 534
The Statutory Powers Procedure Act 534

b) THE OBLIGATION TO HEAR

Re Ramm 541
Western Realty Projects Ltd. v. City Of Edmonton And Triple Five Corporation Ltd. 542

PAGE

c) NOTICE AND ADJOURNMENT

The Statutory Powers Procedure Act 545
Confederation Broadcasting (Ottawa) Ltd. v. C.R.T.C. 546
Re Crabbe And Jamieson 555
Re Crux And Leoville Union Hospital Board et al. (No. 2) 559
Re Sreedhar And Outlook Union Hospital Board et al. 561

d) THE RIGHT TO COUNSEL

The Statutory Powers Procedure Act 563
Pett v. Greyhound Racing Association Ltd. (No. 2) 564
Enderby Town Football Club Ltd. v. Football Association Ltd. 568
Goldhammer Legal Fees In Non Business Administrative Claims 572

e) ORAL AND PUBLIC HEARINGS

The Statutory Powers Procedure Act 576
Local Government Board v. Arlidge 576
R. v. Quebec Labour Relations Board 577
Hoffman-La Roche Ltd. v. Delmar Chemicals Ltd. 578

f) THE MATERIALS FOR DECISIONS

The Statutory Powers Procedure Act, 1971 579
T.A. Miller Ltd. v. Minister Of Housing And Local Government et al. 580
Re Lazar And Association Of Professional Engineers of Manitoba 581
Re City Of Windsor And Local 455 International Ass'n Of Fire Fighters 583
Re Dallinga v. Calgary 586
General Medical Council v. Spackman 588
Errington et al. v. Minister of Health 591
The Statutory Powers Procedure Act, 1971 594
Knapman v. Board Of Health For Saltfleet Township 595
A Statement By The Worker's Compensation Board Of British Columbia About Disclosure 597
Denton et al. v. Auckland City et al. 601
Re C.A.C. and C.R.T.C. 604
A Statement By The Worker's Compensation Board Of British Columbia 606
The Statutory Powers Procedure Act, 1971 611
Re Toronto Newspaper GUILD...And Globe Printing Co. 611
University Of Ceylon v. Fernando 613
The Statutory Powers Procedure Act 614
Davis Administrative Law Text 614

PAGE

g) THE OBLIGATION TO GIVE REASONS

Akehurst Statements Of Reasons For Judicial And Administrative Decisions 617
Statutory Powers Procedure Act, 1971 620
Re Glendenning 621

PART 4 RECENT DEVELOPMENTS IN THE COMMON LAW: FAIRNESS AND THE CHALLENGE TO THE TRADITIONAL APPROACH

Ridge v. Baldwin 624
Re K. 624
Durayappah v. Fernando 625
Re Pergamon Press 628
R. v. Gaming Board, Ex. p. Benaim And Khaida 631
Selvarajan v. Race Relations Board 636
Lazarov v. Secretary Of State 639
Re Hershoran 645
Re Polten and University of Toronto 646

PART 5 PARTICULAR PROCEDURAL REQUIREMENTS IMPOSED BY STATUTE OR DELEGATED LEGISLATION

SECTION (a) PROBLEMS OF INTERPRETATION

Board Of Industrial Relations v. Lander Transfer Ltd. 650
Roper v. Executive Committee, Royal Victoria Hospital 654
Re A.G. Manitoba and National Energy Board 656
Re Magnasonic and Anti-Dumping Tribunal 659
Seafarers International Union v. C.N.R. 664
Re Bachinsky et al. and Sawyer 668
Wiseman v. Borneman 670
Furnell v. Whangarei High Schools Board 678

SECTION (b) THE CONSEQUENCES OF FAILURE TO COMPLY

De Smith Judicial Review Of Administrative Action 686
Re Metropolitan Toronto Board Of Police Commissioners And Metropolitan Toronto Police Association (Unit B) et al. 687
Howard v. Secretary Of State For the Environment 690
Re Dunton And Township Of Etobicoke 694

PAGE

Coney v. Choyce 695

CHAPTER 7 BIAS

The Covent Of The Sacred Heart v. Armstrong's Point Association And Bulgin 702
R. v. Moore, Ex p. Brooks et al. 704
Re Cathcart And The Public Service Commission 710
Law Society Of Upper Canada v. French 713
Re W.D. Latimer Co. Ltd. And Bray 725
Note 734
Committee For Justice And Liberty v. National Energy Board 738
R. v. Pickersgill 748

CHAPTER 8 DELEGATION

SECTION (c) DELEGATION OF DISCRETION

Willis Delegatus Non Potest Delegare 756
Chemicals Reference 760
Allingham et al. v. Minister Of Agriculture And Fisheries 765
R. v. Joy Oil Co. Ltd. 767
R. v. Sandler 769
Carltona Ltd. v. Commissioner Of Works et al. 772
Interpretation Act 775
Local Government Board v. Arlidge 775
Vine v. National Dock Labour Board 776
Jeffs v. New Zealand Dairy Production And Marketing Board 777

CHAPTER VII REMEDIES REVISITED

PART 1 THE COMMON LAW REMEDIES

R. v. Beaver Creek Correctional Camp Head, ex. p. MacCaud 784
R. v. Hillingdon 787
De Smith Judicial Review Of Administrative Action 788
Re Central Canada Potash And Minister Of Natural Resources Of Saskatchewan 791
R. v. Metropolitan Police Commissioner 797
R. v. Metropolitan Police Commissioner 804
Re Simonson And Hodgson 807
Dyson v. A.G. 809
The Judicature Act 812

PAGE

Hollinger Bus Lines v. Ontario Labour Relations Board 812
Morden Recent Developments In Administrative Law 818

PART 2 STATUTORY CHANGES

The McRuer Report 822
The Judicial Review Procedure Act 824
Willis Lawyers' Values And Civil Servants' Values 827
Re Thomas And Committee Of College Presidents 828
Re Raney et al. And The Queen In Right Of Ontario 831
Re Robertson And Niagara Sourt Board Of Education 833
The Federal Court Act 838
Re Attorney-General Of Canada And Cylien 839

PART 3 DISCRETION AND THE EFFECT OF ALTERNATIVE REMEDIES

R. v. Board Of Broadcast Governors 846
Isabey v. Manitoba Health Services Commission 847
Re McColl 848
In P.P.G. Industries v. A.G. Canada 849
Re Legare and Calgary Municipal Planning Commission 850
Re Chad Investments and Longson 851
Re Novak and Law Society of British Columbia 852
Re McGavin Toastmaster and Powlowski 853
Stark v. The Council of the College of Physicians and Suregons of Saskatchewan 854

PART 4 STANDING

SECTION (a) INTRODUCTION

Schwartz & Wade Legal Control Of Government 856
Davis The Liberalized Law Of Standing 856
Jaffe Standing Again 857
Thio Locus Standi And Judicial Review 857
Thorson v. Attorney-General Of Canada 860
Nova Scotia Board Of Censors v. McNeil 869

SECTION (b) CHALLENGING ADMINISTRATIVE DECISIONS AND ENFORCING REQUIREMENTS OF RESTRAINT OR ACTION

Regina v. Vancouver Zoning Board Of Appeal 872
Green v. The Queen In The Right Of The Province Of Ontario 881
Stein v. City Of Winnipeg 885

PAGE

Rosenberg v. Grand River Conservation Authority 887
Sierra Club v. Morton 890
Sax Standing To Sue: A Critical Review Of The Mineral King Decision 895
Jaffe The Citizen As Litigant In Public Actions: The Non-Hohfeldian Or Ideological Plaintiff 899
Attorney-General v. Independant Broadcasting Authority 900
Re Rothmans Of Pall Mall And M.N.R. 908

SECTION (c) ENFORCING REQUIREMENTS OF RESTRAINT OR ACTION: HEREIN OF INJUNCTIONS

Moose Jaw Merchandisers v. Westport Enterprises 914
Attorney-General v. Independant Broadcasting Authority 915